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BEFORE THE ARIZONA CORPORATION COMMISSION

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF THE APPLICATION) DOCKET NO. RR-03639A-07-0517
OF UNION PACIFIC RAILROAD COMPANY)
TO ALTER FOUR CROSSINGS OF THE) **NOTICE OF FILING FULLY**
UNION PACIFIC RAILROAD IN THE CITY) **EXECUTED AGREEMENT**
OF MARICOPA, PINL COUNTY, ARIZONA,) **BETWEEN AK-CHIN TOWN OF**
AT MARICOPA ROAD/STATE ROUTE 347,) **MARANA**
PORTER, WHITE & PARKER, AND) **AND UNION PACIFIC RAILROAD**
HARTMAN ROADS) **COMPANY**

Applicant Union Pacific Railroad Company ("Union Pacific") hereby gives notice that the Ak-Chin Indian Community and Union Pacific have entered into a Consultation Agreement dated October 26, 2009, a fully executed copy of which is attached hereto as Exhibit A. Union Pacific is filing a copy of the Consultation Agreement within 30 days of its execution, as ordered by the Commission in its Opinion and Order dated May 21, 2009, Decision No. 71065, page 21.

RESPECTFULLY SUBMITTED this 5th day of November, 2009.

BEAUGUREAU, HANCOCK,
STOLL & SCHWARTZ, P.C.

By: Terrance L. Sims
Anthony J. Hancock
Terrance L. Sims
302 East Coronado Road
Phoenix, Arizona 85004
Attorneys for Applicant Union
Pacific Railroad Company

Arizona Corporation Commission
DOCKETED

NOV - 5 2009



1 ORIGINAL AND THIRTEEN COPIES
2 of the foregoing filed this 5th day of
November, 2009, with:

3 ARIZONA CORPORATION COMMISSION
4 1200 West Washington Street
Phoenix, Arizona 85007

5 COPY of the foregoing hand-delivered
6 this 5th day of November, 2009, to:

7 Janice Alward, Esq., Chief Counsel
8 Charles H. Hains, Esq.
Legal Division
9 ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
Phoenix, Arizona 85007
11 Attorney for the Commission's
Railroad Safety Section's Staff

12 COPY of the foregoing mailed this
13 5th day of November, 2009, to:

14 Mr. Brian Lehman, Supervisor
15 Mr. Chris Watson, Assistant Supervisor
Railroad Safety Section
16 ARIZONA CORPORATION COMMISSION
2200 North Central Avenue, #300
Phoenix, Arizona 85004

17 Robert F. Palmquist, Esq.
18 STRICKLAND & STRICKLAND, P.C.
4400 East Broadway, Suite 700
19 Tucson, Arizona 85711
20 Attorney for the Ak-Chin Indian Community

21 Robert Travis, PE,
State Railroad Liaison
22 Utilities & Railroad Engineering Section
ARIZONA DEPARTMENT OF TRANSPORTATION
23 205 South 17th Avenue, Mail Drop 618E
Phoenix, Arizona 85007

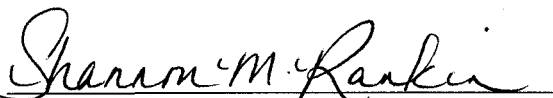
24 
25 Shannon M. Rankin
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EXHIBIT “A”

CONSULTATION AGREEMENT
BETWEEN
THE AK-CHIN INDIAN COMMUNITY
AND
THE UNION PACIFIC RAILROAD

"This Agreement, dated October 26, 2009 is to establish a process that will ensure meaningful and timely communication, discussion and consultation between the Union Pacific Railroad ("UP") and the Ak-Chin Indian Community ("Community") regarding any activities of UP, other than routine maintenance as hereinafter defined, which are within any right-of-way that UP may have within Community lands, or which may reasonably be expected to affect highway traffic or other developments on the Ak-Chin Indian Community. "Routine maintenance," as used in the preceding sentence, shall mean repair or replacement of structures in existence or under construction at the time this Agreement is signed, but shall not include construction of any new tracks. Examples of "routine maintenance" include repair or replacement of existing ties, rails, signals, bridges, drainage structures, ballast and other existing railroad infrastructure-supporting materials, and trimming and removal of vegetation on or near UP's right-of-way."

UP will provide at least thirty (30) days written notice to the Community of any UP activity that may reasonably be expected to affect the Community. The parties shall then meet and confer on such activity.

It is UP's intent that any double-track construction process through the Community will only occur pursuant to a valid right-of-way, and there will not be any construction activity, mobilization, or interference within the Community, except in a valid right-of-way. If Community lands outside of UP's existing right-of-way are involved, UP will obtain the appropriate permits from the Community.

Ak-Chin Indian Community claims cultural affinity with the area adjacent to the Reservation which was once inhabited by the ancestors of the members of the Ak-Chin Indian Community, and with any cultural artifacts or remains that may be within this adjacent area as well as the area within the Reservation itself. If in the course of UP construction, such cultural artifacts or remains are discovered, UP will immediately cease construction and call the Ak-Chin Cultural Resources Office at the address and phone number listed below. If any human remains are discovered in the course of such construction, UP and Ak-Chin will sign a burial agreement in the form applicable to such remains developed by the Arizona State Museum, a copy of which is attached hereto and made a part hereof.

The parties agree that this Consultation Agreement shall remain in full force and effect for a period of five (5) years from the date of execution thereof, and may be renewed by the parties at the expiration of the five year period. The parties agree that prior to the

expiration of this Consulting Agreement, they will meet and discuss the execution of a replacement Agreement which shall include any and all provisions contained herein and additional provisions as may be negotiated between the parties.

By virtue of this Agreement, the parties designate the following persons to receive all notices and communications:


Union Pacific Railroad
Ms. Zoe Gisela Richmond
Director Public Affairs, Arizona and New Mexico
1301 E. Harrison Street
Phoenix, Arizona 85034
(602) 343-2701
zrichmond@up.com

Cultural Resources Manager
Ak-Chin Cultural Resources Department
42507 West Peters and Nall Road
Maricopa, Arizona 85238
(520) 568-1365

Ak-Chin Indian Community
Chairman, Community Council
42507 W. Peters & Nall Rd.
Maricopa, Arizona 85238
(520) 568-1000

Strickland & Strickland, P.C.
4400 E. Broadway, Suite 700
Tucson, Arizona 85711
(520) 795-8727

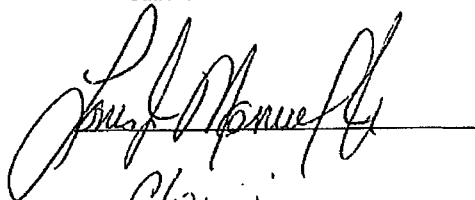
UNION PACIFIC RAILROAD



Its: Director of Public Affairs

Date: 10/26/09

AK-CHIN INDIAN COMMUNITY



Its: Chairman

Date: 10/26/09